

1 The Honorable Ricardo. S. Martinez
2
3
4
5
6
7
8

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 JENNIFER P. SCHWEICKERT,)
10) Plaintiff,) No. 13-CV-675
11 v.))
12 HUNTS POINT VENTURES, INC.; HUNTS) DEFENDANTS CHAD AND
13 POINT VENTURE GROUP, LLC; CHAD and) ELIZABETH RUDKIN'S ANSWER AND
14 ELIZABETH RUDKIN, and their marital) AFFIRMATIVE DEFENSES TO
community comprised thereof; JOHN DU) PLAINTIFF'S FIRST AMENDED
15 WORS, and DOES 1-4,) COMPLAINT
16)
17 Defendants.)
18)
19)
20)
21)
22)
23)
24)
25)
26)

CHAD AND ELIZABETH RUDKIN (collectively "Defendants"), by and through their undersigned counsel, provide the following Answer and Affirmative Defenses to Plaintiff JENNIFER P. SCHWEICKERT's First Amended Complaint (the "Complaint") as follows:

INTRODUCTION

In response to that portion of the Complaint entitled "Introduction," Defendants answer that it is a summary of Plaintiff's claims and no response is required.

THE PARTIES

In response to that portion of the Complaint entitled "the Parties," Defendants answer as follows:

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 1
Case No. 13-CV-675

51313914.1

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

1. Defendants ADMIT that Plaintiff is an individual, but Defendants have insufficient information to form a belief as to the remaining allegation in Paragraph 1 and therefore DENY the allegation.

2. Defendants ADMIT that Hunts Point Ventures, Inc., and Hunts Point Venture Group, LLC, are entities set up under the laws of Washington State, residing in King County, but Defendants have insufficient information to form a belief as to the remaining allegations in Paragraph 2 and therefore DENY the allegations.

3. Defendants DENY that they are individuals residing in King County, State of Washington but have insufficient information to form a belief as to the remaining allegations in Paragraph 3 and therefore DENY the allegations. Defendants affirmatively state that they are residents of Pierce County, State of Washington.

4. Defendants have insufficient information to form a belief as to the allegations in Paragraph 4 and therefore DENY the allegations.

5. Defendants have insufficient information to form a belief as to the allegations in Paragraph 5 and therefore DENY the allegations.

JURISDICTION AND VENUE

6. Defendants have insufficient information to form a belief as to the allegations in Paragraph 6 and therefore DENY the allegations.

7. Defendants have insufficient information to form a belief as to the allegations in Paragraph 7 and therefore DENY the allegations.

8. Defendants have insufficient information to form a belief as to the allegations in Paragraph 8 and therefore DENY the allegations.

FACTUAL ALLEGATIONS HPV Formation

9. Defendants have insufficient information to form a belief as to the allegations in Paragraph 9 and therefore DENY the allegations.

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 2
Case No. 13-CV-675

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

10. Defendants have insufficient information to form a belief as to the allegations in Paragraph 10 and therefore DENY the allegations.

11. Defendants have insufficient information to form a belief as to the allegations in Paragraph 11 and therefore DENY the allegations.

12. Defendants ADMIT that Hunts Point Ventures, Inc. is organized as a Washington corporation, but Defendants have insufficient information to form a belief as to the remaining allegations in Paragraph 12 and therefore DENY the allegations.

13. Defendants have insufficient information to form a belief as to the allegations in Paragraph 13 and therefore DENY the allegations.

14. Defendants have insufficient information to form a belief as to the allegations in Paragraph 14 and therefore DENY the allegations.

Plaintiff makes a loan to HPV

15. Defendants have insufficient information to form a belief as to the allegations in Paragraph 15 and therefore DENY the allegations.

16. Defendants have insufficient information to form a belief as to the allegations in Paragraph 16 and therefore DENY the allegations.

17. Defendants have insufficient information to form a belief as to the allegations in Paragraph 17 and therefore DENY the allegations.

18. Defendants have insufficient information to form a belief as to the allegations in Paragraph 18 and therefore DENY the allegations.

19. Defendants have insufficient information to form a belief as to the allegations in Paragraph 19 and therefore DENY the allegations.

20. Defendants have insufficient information to form a belief as to the allegations in Paragraph 20 and therefore DENY the allegations.

21. Defendants have insufficient information to form a belief as to the allegations in Paragraph 21 and therefore DENY the allegations.

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 3
Case No. 13-CV-675

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400, FAX (206) 447-9700

22. Defendants have insufficient information to form a belief as to the allegations in Paragraph 22 and therefore DENY the allegations.

23. Defendants DENY the allegations contained in the ninth and tenth sentences of Paragraph 23. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

24. Defendants DENY the allegations contained in the third sentence of Paragraph 24. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

25. Defendants have insufficient information to form a belief as to the allegations in Paragraph 25 and therefore DENY the allegations.

26. Defendants have insufficient information to form a belief as to the allegations in Paragraph 26 and therefore DENY the allegations.

27. Defendants have insufficient information to form a belief as to the allegations in Paragraph 27 and therefore DENY the allegations.

28. Defendants DENY the allegations contained in the third and fifth sentences of Paragraph 28. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

HPV Breaches the Agreement

29. Defendants have insufficient information to form a belief as to the allegations in Paragraph 29 and therefore DENY the allegations.

30. Defendants DENY the allegations contained in the third sentence of Paragraph 30. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

31. Defendants have insufficient information to form a belief as to the allegations in Paragraph 31 and therefore DENY the allegations.

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 4
Case No. 13-CV-675

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

32. Defendants have insufficient information to form a belief as to the allegations in Paragraph 32 and therefore DENY the allegations.

33. Defendants have insufficient information to form a belief as to the allegations in Paragraph 33 and therefore DENY the allegations.

34. Defendants have insufficient information to form a belief as to the allegations in Paragraph 34 and therefore DENY the allegations.

35. Defendants have insufficient information to form a belief as to the allegations in Paragraph 35 and therefore DENY the allegations.

36. Defendants have insufficient information to form a belief as to the allegations in Paragraph 36 and therefore DENY the allegations.

37. Paragraph 37 is a legal conclusion to which no response is required. To the extent a response is required, Defendants DENY the allegation.

First Cause of Action Breach of Contract

38. Paragraph 38 incorporates previous paragraphs, and no response is required.

39. Defendants have insufficient information to form a belief as to the allegations in Paragraph 39 and therefore DENY the allegations.

40. Defendants answer that Defendant Chad Rudkin is the sole shareholder of Hunts Point Ventures, Inc.

41. Defendants DENY the allegations in Paragraph 41.

42. Defendants DENY the allegations in Paragraph 42.

43. Defendants DENY the allegations in Paragraph 43.

44. Defendants DENY the allegations in Paragraph 44.

**Second Cause of Action
Fraud**
(Against Defendants the Rudkins and John and Amber Du Wors)

45. Paragraph 45 incorporates previous paragraphs, and no response is required.

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 5
Case No. 13-CV-675

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

46. Defendants have insufficient information to form a belief as to the allegations in Paragraph 46 and therefore DENY the allegations.

47. Defendants have insufficient information to form a belief as to the allegations in Paragraph 47 and therefore DENY the allegations.

48. Defendants have insufficient information to form a belief as to the allegations in Paragraph 48 and therefore DENY the allegations.

49. Defendants DENY the allegations in Paragraph 49.

50. Defendants have insufficient information to form a belief as to the allegations in Paragraph 50 and therefore DENY the allegations.

51. Defendants have insufficient information to form a belief as to the allegations in Paragraph 51 and therefore DENY the allegations.

52. Defendants have insufficient information to form a belief as to the allegations in Paragraph 52 and therefore DENY the allegations.

Third Cause of Action Conspiracy (Against Defendants the Rudkins and Mr. Du Wors)

53. Paragraph 53 incorporates previous paragraphs, and no response is required.

54. Defendants DENY the allegations in Paragraph 54.

55. Defendants DENY the allegations in Paragraph 55.

56. Defendants DENY the allegations contained in the fifth sentence of Paragraph 56. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations.

57. Defendants have insufficient information to form a belief as to the allegations in Paragraph 57 and therefore DENY the allegations.

58. Defendants have insufficient information to form a belief as to the allegations in Paragraph 58 and therefore DENY the allegations.

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 6
Case No. 13-CV-675

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400, FAX (206) 447-9700

59. Defendants DENY the allegations contained in the first and second sentences of Paragraph 59. As to the remainder of the Paragraph, Defendants have insufficient information to form a belief as to any remaining allegations and therefore DENY such allegations..

60. Defendants have insufficient information to form a belief as to the allegations in Paragraph 60 and therefore DENY the allegations.

61. Defendants DENY the allegations in Paragraph 61.

62. Defendants DENY the allegations in Paragraph 62.

63. Defendants DENY the allegations in Paragraph 63.

**Fourth Cause of Action
Negligent Misrepresentation
(Against Defendant John Du Wors)**

64. Paragraph 64 incorporates previous paragraphs, and no response is required.

65. Defendants have insufficient information to form a belief as to the allegations in Paragraph 65 and therefore DENY the allegations.

66. Defendants have insufficient information to form a belief as to the allegations in Paragraph 66 and therefore DENY the allegations.

67. Defendants have insufficient information to form a belief as to the allegations in Paragraph 67 and therefore DENY the allegations.

68. Defendants have insufficient information to form a belief as to the allegations in Paragraph 68 and therefore DENY the allegations.

69. Defendants have insufficient information to form a belief as to the allegations in Paragraph 69 and therefore DENY the allegations.

70. Defendants have insufficient information to form a belief as to the allegations in Paragraph 70 and therefore DENY the allegations.

PRAYER FOR RELIEF

No response is required to that portion of the Complaint entitled "Prayer for Relief."

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 7
Case No. 13-CV-675

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

AFFIRMATIVE DEFENSES

71. Plaintiff's complaint fails to state a claim on which relief can be granted.

72. Plaintiff's claims are barred by estoppel.

73. Plaintiff's claims are barred by waiver.

74. Plaintiff's claims are barred by laches.

75. Plaintiff's claims are barred because they were filed after the applicable statute of limitations expired.

76. To the extent Plaintiffs' complaint seeks equitable relief, Plaintiff's unclean hands bar such relief.

77. To the extent Plaintiff's complaint seeks equitable relief, Plaintiff's claims are barred because there is an adequate remedy at law.

78. To the extent Plaintiff's complaint seeks equitable relief, Plaintiff's claims are barred because there is no irreparable harm to Plaintiffs

79. Plaintiff's complaint fails to name an indispensable party.

80. To the extent Plaintiff has damages, Plaintiff's damages were caused by one or more third parties

81. To the extent Plaintiff's have damages, Plaintiffs failed to mitigate those damages.

⁸² Defendants reserve the right to add additional affirmative defenses.

DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 8
Case No. 13-CV-675

51313914.1

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

1 DATED this 6th day of August, 2013.

2 FOSTER PEPPER PLLC

3

4 *s/s Joel B. Ard*
5 Joel B. Ard, WSBA No. 40104
6 *Attorneys for Defendants*
7 *Chad and Elizabeth Rudkin*

8 1111 Third Avenue, Suite 3400
9 Seattle, WA 98101
10 Tel: 206-447-6252
11 Fax: 206-749-2063
12 Email: ardjo@foster.com

13
14
15
16
17
18
19
20
21
22
23
24
25
26
DEFENDANTS CHAD AND ELIZABETH RUDKIN'S
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED COMPLAINT - 9
Case No. 13-CV-675

51313914.1

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

CERTIFICATE OF SERVICE

I, Joel B. Ard, state that I am a citizen of the United States of America and a resident of the State of Washington, I am over the age of twenty one years, I am not a party to this action, and I am competent to be a witness herein. I electronically filed the above Answer and Affirmative Defenses to Plaintiff's Complaint with the Clerk of the Court using the CM/ECF System, who will electronically send notification of such filing to the following parties who have appeared in this action as of today's date:

- **Reed Yurchak** – yurchaklaw@gmail.com
- **A. Janay Ferguson** – ajf@leesmart.com
- **Sam Breazeale Franklin** – sbf@leesmart.com

There are no other parties who have appeared in this action as of today's date that need to be served manually.

I DECLARE under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 6th day of August, 2013.

/s/ Joel B. Ard
Joel B. Ard

CERTIFICATE OF SERVICE
Case No. 13-CV-675

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700